

Implications of Regulations on ISPs

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Agenda

- **How ISPs sees e-mail marketing**
- **The plus and minus of legislation on ISPs**
- **ISPs suggestions to the bill**



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E-mail Marketing is ...

- A legitimate business.
- But nature of e-mail marketing has a near-zero marginal cost to the marketer
- which leads to exploits of this channel by spammers.
- Who bears the costs ?
- The end users.
- The ISPs.



Costs of Spam

- **HKISPA estimated in 2004 that ISPs in aggregate spent 3.8M per month to deal with spam**
- **Over 90% of incoming traffic are spam related – including spams, dictionary attacks**
- **Costs on end users were estimated to be 10B per year worth of productivity**



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How to solve the problem ?

- **E-mail marketing is legitimate ...**
- **But we need to balance the cost.**
- **E-mail marketers need a fair share of the cost.**
- **E.g. administrative costs, compensation to ISPs when damage is done, risk factors etc.**



Pluses of Legislation

- **Opt out is an administrative cost to e-mail marketers**
- **The right to sue by ISP is a risk factor to spammers**
- **Marketers are not allowed to get e-mail addresses by means of dictionary attacks and address harvesting – actions that hugely impacts operation of ISP**



Minuses of Legislation

- **Potential conflict with freedom of speech and expression ...**
- **But ISPs generally take a balanced view, that the right to refuse should also be respected.**
- **Administrative costs to SMEs**
- **But this is the useful effect of the legislation – to fix part of the cost imbalances.**



ISPs suggestions to the Bill

- **Scope of legislation covers commercial messages only ...**
- **Indirectly legitimize spamming of messages claiming to be non-commercial in nature.**
- **What can operators do when they are requested to send huge amount of non-commercial messages ?**
- **Amendment of Section 24 of Telecommunications Ordinance to empower ISPs to refuse connections on technical and operational grounds.**



ISPs suggestions to the Bill

- Address harvesting and dictionary attack should both be illegal – both are almost costless to spammers
- Address Harvesting irritates end users
“I put something there does not mean I let you use it”.
- Dictionary attack is even worst – equivalent to password breaking.



ISPs suggestions to the Bill

- **Enforcement mechanism too weak – Mandatory second chance**
- **By experience of the PDPO – Ineffective**
- **Enforcement mechanism should at least be strengthened for automatic calls – e.g. recorded phone call or e-mail to random recipients**

ISPs suggestions to the Bill

- **Right to sue by ISP**
- **Enjoin further violation**
- **Recover Damages**
- **ISPs should rightfully be protected by such provisions as they are one of the parties damaged by spamming**



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Conclusions

- **ISPs support e-marketing – which is the right trend in the modern information network. Some ISPs are themselves e-marketers**
- **But the cost distribution of e-mail marketing should be rebalanced**
- **ISPs happy to see new business models of e-marketing evolve**
- **ISPs generally welcome the legislation proposal**

